

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN MACK COLE**, on March 3, 1999 at 10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Mary Morris, Acting Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) : HB274; HB620
Executive Action: HB274, HB620

HEARING ON HB274

Sponsor: Representative Marian Hanson, HD1

Proponents: John Alke, Montana-Dakota Utilities Company
Ed Bartlett, Director, Government Affairs, Montana Power Company
Ron Ostberg, Montana Independent Telecommunications Systems
Martin Jacobson, Staff Attorney, Montana Public Service Commission

Opponents: None

Opening Statement by Sponsor:

REP. HANSON explained that HB274 will eliminate the requirement that public utilities regulated by the Montana Public Service Commission file reports with the Commission when minor injuries occur in their operations, noting that she calls this her "paper reduction" bill. She said the PSC is a state agency charged with regulating the rates and service of public utilities in the state and is also the state enforcement agency for the federal Pipeline Safety Program run by the federal Department of Transportation. Under federal regulations, as well as Montana law, gas pipelines must report any injury or accident which requires inpatient hospitalization. Montana law also requires utilities regulated by the Commission to file a report for any accident, regardless of how minor, and HB274 proposes to eliminate reporting minor accidents not requiring hospitalization. She said she does not believe this bill is a controversial bill, that it saves one step in the paper trail.

Proponents' Testimony:

John Alke, Montana-Dakota Utilities Company, reported that MDU does business in North Dakota, South Dakota, Wyoming and Montana, and that Montana is the only state with a requirement on the books that they report accidents regardless of how minor. These reporting requirements most frequently deal with pipeline safety, and federal pipeline safety rules do not require reporting an accident unless there is a certain amount of property damage or the injury requires hospitalization. Removing from Montana law the requirement to report accidents, regardless of how minor, will make reporting requirements consistent across the 4-state area. He gave the example of someone bumping into a telephone or power pole and getting a "fat lip", and explained that, in theory, that would have to be reported but he thinks it is fair to assume that kind of report is not being prepared however, according to Montana statute, they could be subject to a fine and penalty for not filing reports required by law. He said this is a common sense bill, that he thinks it is a consensus bill as there was no opposition in the House and they do not expect any opposition in the Senate.

Ed Bartlett, Director, Government Affairs, Montana Power Company, said the Montana Power Company supports HB274 for the same reasons given by **Mr. Alke**, adding that it creates efficiency and eliminates the requirement to report minor accidents.

Ron Ostberg, Montana Independent Telecommunications Systems, said the telephone cooperatives and small independent telephone companies also support HB274 for the reasons already given, and recommend the committee's favorable consideration.

Martin Jacobson, Staff Attorney, Montana Public Service Commission, reported that the Commission would like to go on record supporting this bill.

Questions from Committee Members and Responses:

SEN. WELLS referred to the language "minor injuries" in title of the bill, and said he does not see a definition of "minor injury" except by inference in Section 1, subparagraph 1 that reads "that requires 3 days or more of hospitalization." He added that subparagraph 2 indicates a report is to be filed when an accident requires hospitalization, but it does not say "3 days", and there appears to be some inconsistencies.

REP. HANSON responded that she would not have a problem with an amendment to add the language "3 days or more" on line 18, noting that the bill is attempting to address injuries that did not require hospitalization.

SEN. WELLS asked if anyone else could explain. **Mr. Alke**, said that the two subsections are addressing 2 separate procedures, that one is the Commission's requirement to conduct an independent investigation of accidents resulting in injuries requiring hospitalization of 3 days or more, and this requirement is not being changed. He explained that all of the changes proposed in HB274, with the exception of striking the sentence on lines 21-23 of the bill, were at the request of the Legislative Council. He clarified that subsection 2 is the reporting requirement, and subsection 1 is an independent investigation requirement.

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Closing by Sponsor:

REP. HANSON stated that this does not change any of the reporting rules for OSHA, or any of the other rules they have to abide by, and asked if **CHAIRMAN COLE** would carry the bill in the Senate.

CHAIRMAN COLE said he would.

CHAIRMAN COLE indicated that HB334 was scheduled for hearing but that it falls under CI-75 and is no longer an active bill.

HEARING ON HB620

Sponsor: REP. CARLY TUSS, HD46

Proponents: None

Opponents: None

Informational Testimony: Mike Voeller, Lee Newspapers of Montana
and the Montana Newspaper Association

Opening Statement by Sponsor:

SEN. TESTER presented HB620 in the absence of the sponsor. He explained that records which are constitutionally protected from disclosure are exempt from the bill, and indicated that sections 3 and 4 further define the bill.

Informational Testimony:

Mike Voeller, Lee Newspapers of Montana and the Montana Newspaper Association, indicated the bill reaffirms what is already constitutionally and statutorily in the law. He said they have to balance the right to know against the right to privacy, and he thinks the sponsor's primary concern was the construction of the private prison at Shelby, and a jail break that occurred in the Great Falls Regional Jail. He noted that the language in section 4, "withholding from public scrutiny", referring to specific information regarding staffing, etc., would seem to be privileged anyway, reiterating that this primarily reaffirms what is already in law, and they do not have any serious problems with it.

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CHAIRMAN COLE announced that the sponsor of the bill had arrived and offered her an opportunity to make some comments.

REP. TUSS apologized to the committee for being late. She indicated that it's unusual that she would sponsor a bill to restrict the Freedom of Information Act, but she is concerned about the new corrections facility in Shelby, realizing there are elements in our society that use this kind of information in ways that could be harmful. She pointed out that the bill is very specific as to what is restricted, that it applies to blue prints, building plans, staffing patterns and security systems, and that, because it is so specific, the overall Freedom of Information Act is not unnecessarily challenged. She pointed out that the bill says "may (withhold)" and, if there is a need to know, the information can be distributed, so it is not 100%

unavailable, and gave the example that the information would be available to local fire departments. This will establish a statutory ability to refuse, unless there is a justifiable reason for the information to be disseminated.

Questions from Committee Members and Responses:

SEN. TESTER asked who determines if it is justifiable to give that information out? **REP. TUSS** responded that it will be the person who have the authority to distribute the information, adding that, if someone has a justifiable reason but is turned down, the Administrative Procedures Act will be helpful.

CHAIRMAN COLE asked **Mr. Voeller** if he feels this would have an effect on the Freedom of Information or Privacy Act. **Mr. Voeller** responded that he does not, that he has looked at it quite a few times and given it a lot of thought, and he does not see where it does. He added that, at some point, it is possible a law suit could result, that this would then be defined by the courts and could cost some money. He reiterated that he does not see where it will compromise the public's right to know or the Freedom of Information Act.

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Closing by Sponsor:

REP. TUSS said she thinks this is protective of the integrity of our correctional facilities, then indicated that she did not approach the Department of Corrections, the Peace Officers or anyone else who might have a vested interest in this, that she approached those people who have concerns about freedom of speech and information. She pointed out that she talked with **Mr. Voeller** from the Montana Newspaper Association, **Mr. Crichton** from the ACLU, and people from the telecommunications network, that there was strong support, there were no opponents, and there was acknowledgment from the newspapers that this would not negatively impact the public's right to have public documents made available to them.

SEN. TESTER agreed to carry HB620 in the Senate.

Motion/Vote: **SEN. HARGROVE** moved that **HB620 BE CONCURRED IN.**
Motion carried unanimously.

Motion: **SEN. WELLS** moved that **HB334 BE TABLED.**

Discussion:

There was discussion regarding whether or not the committee was required to act on bills that related to CI-75, and are now invalid. **CHAIRMAN COLE** read a memo from **Greg Petesch**, **EXHIBIT(sts48a01)**, and indicated that "The bills that were split from the original bill and would have been referred to the electors at a tax election can be tabled." **SEN. WILSON** agreed, indicating that it would then be apparent that these bills had been disposed of. **Mr. Niss** reported that he did some research, and there is a rule in the House that all bills must be acted on, but there is not a similar requirement in the Senate. There was further discussion among the committee members about whether to act on those bills or not. **SEN. HARGROVE** reported that another committee passed a generic vote that anything with a contingency avoidance would be amended, and those that didn't would be considered invalid. It was suggested that the committee postpone a decision on HB334.

SEN. WELLS withdrew his motion.

SEN. TESTER said he would like to know, from a leadership perspective, what they would like the committees to do with those bills. There was additional discussion about what to do with CI-75 bills.

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Motion/Vote: **SEN. TESTER** moved that **HB274 BE CONCURRED IN**.
Motion carried unanimously.

CHAIRMAN COLE reviewed the committee's agenda for Thursday, Friday and Monday, and indicated that the committee will probably consider the Governor's board appointments resolution later this week. **Mr. Niss** indicated he would need to know which board appointments would be included on the resolution so that he could prepare it.

ADJOURNMENT

Adjournment: 10:44 A.M.

SEN. MACK COLE, Chairman

MARY MORRIS, Acting Secretary

MC/MM

EXHIBIT (sts48aad)